



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

February 24, 2015

Anthony W. McClure
13831 N. Ayrshire Circle
Camby, IN 46113

Re: Formal Complaint 15-FC-40; Alleged Violation of the Open Door Law and Access to Public Records Act by the Fire Department of Liberty Township, Inc.

Dear Mr. McClure,

This advisory opinion is in response to your formal complaint alleging certain members of the Fire Department of Liberty Township, Inc., (“FDLT”) violated the Open Door Law (“ODL”), Ind. Code § 5-14-1.5-1 *et. seq.*, and the Access to Public Records Act (“APRA”) Ind. Code § 5-14-3-1 *et. seq.* FDLT has responded via counsel, William S. Frankel, IV, Esq. The response is enclosed for your review. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on January 30, 2015.

BACKGROUND

Your complaint dated January 30, 2015 alleges the FDLT excluded you from a special meeting in violation of the Open Door Law.

On January 27, 2015, the FDLT held a “special meeting” to discuss “the Chief Process, disciplinary actions, and the future of the FDLT”. The FDLT responded to your complaint arguing that the purpose of the meeting was to discuss the threatened and pending litigation you filed against them as well as a disciplinary action. It also concedes the notice was statutorily insufficient yet unintentional.

ANALYSIS

Opinion of the Public Access Counselor 15-FC-21 is incorporated by reference. As I noted in that particular Opinion, notice requirements for executive sessions can be found at Ind. Code § 5-14-1.5-6.1(d) and must state the specific statutory authorization allowing the executive session (48) forty-eight hours in advance of the meeting.



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

The notice provided was indeed insufficient; however, as I stated in the former Opinion, it appears as if the FDLT is just now orienting itself to the requirements of the Open Door Law. While ignorance of the statute is not a defense and a violation has occurred, it is my sincere hope the FDLT will abide by the strict requirements of the ODL in the future.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Fire Department of Liberty Township has violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read "L. Britt", written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: William S. Frankel, IV, Esq.